



## Ohio Revised Code

### Section 5801.22 Termination of irrevocable trust as a result of trust-terminating distributions.

Effective: April 3, 2023

Legislation: Senate Bill 202 - 134th General Assembly

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(A) When a trust is to terminate as a result of trust-terminating distributions and the trustee elects to use the provisions of this section, the trustee shall serve on the terminating distributions necessary parties the documents and information described in division (B) of this section. The trustee also may serve those documents and that information on other persons who the trustee reasonably believes may have an interest in the trust. Service shall be made within a reasonable period of time after the event or determination that requires or authorizes such distributions.

(B) The documents and information to be served include both of the following:

(1) A written notice, executed by or on behalf of the trustee, that includes the following information:

(a) The date of the notice, corresponding to the date the notice is being sent;

(b) A description of the terms of the trust that require or authorize the trust-terminating distributions or a citation to any statute that requires or authorizes the distributions;

(c) If the terms of the trust require any of the proposed trust-terminating distributions, a description of any triggering event that is the basis for each mandatory distribution;

(d) A description of the proposed trust-terminating distributions that includes the names of the proposed distributees and a description, in general or specific terms, of the assets proposed for distribution to each;

(e) A description of the distributions objection period and the name, mailing address, electronic address if available, and telephone number of the person or office associated with the trustee to which any written objections should be sent;



- (f) A description of the process, described in division (C) of this section, that will be followed if the trustee receives no written objections within the distributions objection period;
- (g) A description of the process, described in division (D) of this section, that will be followed if the trustee receives a written objection within the distributions objection period;
- (h) A statement of the impending bar of claims against the trustee, as described in division (F) of this section, that will result if an objection is not timely made;
- (i) A statement that the trustee may rely upon the written statement of a recipient of the notice that such person consents to the proposed trust-terminating distributions and irrevocably waives the right to object to the distributions and any claim against the trustee for matters disclosed in the notice or the trustee's reports served with it and all other matters pertaining to the trustee's administration of the trust;
- (j) A statement that the trustee may complete the distributions described in the notice prior to the expiration of the distributions objection period if all of the persons on whom the notice was served deliver to the trustee written consents and irrevocable waivers of the kind described in division (E) of this section;
- (k) An exhibit showing the assets on hand at the date the notice is prepared and their respective values as shown in the regularly kept records of the trustee;
- (l) An estimate of any assets, income, taxes, fees, expenses, claims, or other items reasonably expected by the trustee to be received or disbursed before completion of the trust-terminating distributions but not yet received or disbursed, including trustee fees remaining to be paid.
- (2) One or more trustee's reports covering the applicable reporting period.
- (C) If no written objection is received by the trustee within the distributions objection period:
- (1) The notice and trustee's reports served pursuant to division (A) of this section shall be considered approved by each recipient of the notice and reports;



(2) The trustee, within a reasonable period of time following the expiration of the distributions objection period, shall distribute the assets as provided in the notice;

(3) Any person who was served such notice and reports shall be barred from bringing a claim against the trustee, and from challenging the validity of the trust, as provided in division (F) of this section.

(D)(1) If, after being served the notice and trustee's reports described in division (B) of this section, a qualified beneficiary or any other recipient of the notice wishes to object to matters disclosed in the notice or trustee's reports served, or any other matter pertaining to the trustee's administration of the trust, the person shall provide written notice of the objection to the trustee of the noticing trust within the distributions objection period. If the trustee receives a written objection within the distributions objection period, the trustee may do either of the following:

(a) Submit the written objection to the court for resolution. The expense of commencing, conducting, and concluding such a proceeding shall be charged as ordered by the court.

(b)(i) Resolve the objection with the objecting person by accepting a withdrawal of the person's objection or by written instrument, a written agreement as described in section 5801.10 of the Revised Code, or other means.

(ii) Any agreement or other written instrument executed by the objecting party pursuant to division (D)(1)(b)(i) of this section may include a release and a trustee indemnification clause, along with other terms agreed to by the parties. Reasonable expenses related to such written instrument or written agreement shall be charged to the trust.

(2) Within a reasonable time after resolution of all timely objections under division (D)(1) of this section, the trustee shall distribute the remaining trust assets as provided in the notice, subject to any modifications provided for in the terms of the document setting forth the resolution of each such objection.

(E)(1) The trustee may rely upon the written statement of a recipient of the notice and trustee's reports served under this section that the recipient:



- (a) Consents to the proposed trust-terminating distributions;
- (b) Irrevocably waives the right to object to the distributions;
- (c) Irrevocably waives any claims against the trustee for breach of trust as to matters disclosed in the notice and trustee's reports and all other matters pertaining to the trustee's administration of the trust.

(2) The distributions described in the notice may be completed prior to the expiration of the distributions objection period if all of the persons on whom the notice and trustee's reports were served have delivered to the trustee similar written consents and irrevocable waivers.

(F)(1)(a) Any person who was served a notice and trustee's reports that comply with the requirements of this section and who either consented to the proposed trust-terminating distributions or failed to timely provide the trustee a written objection as described in this section is barred from:

- (i) Bringing a claim against the trustee for breach of trust as to matters disclosed in the notice and trustee's reports and all other matters pertaining to the trustee's administration of the trust;
- (ii) Challenging the validity of the trust.

Such claims shall be barred as described in division (F)(2) of this section.

(b) If all of the terminating distributions necessary parties and all qualified beneficiaries of the trust have been served a notice and trustee's reports that comply with the requirements of this section and have either consented to the proposed trust-terminating distributions or failed to timely provide the trustee a written objection as described in this section, all other beneficiaries of the trust, including persons who may succeed to the interests in the trust of the beneficiaries served, shall be barred as described in division (F)(2) of this section.

(2) The bar of claims under division (F) of this section applies:

- (a) To each person barred, the person's personal representatives and assigns, and the person's heirs



who are not beneficiaries of the noticing trust;

(b) To the same extent and with the same preclusive effect as if the court had entered a final order approving and settling the trustee's full account of its entire administration of the trust, notwithstanding the limitations periods otherwise applicable under section 5810.05 of the Revised Code.

(G) Any beneficiary who receives trust assets as a result of a trust-terminating distribution described in the notice described in division (B) of this section and who is barred from bringing claims under division (F) of this section may be required to return all or any part of the value of the distributed assets if the trustee determines that the return of assets is necessary to pay, or reimburse the trustee for payment of, taxes, debts, or expenses of the trust, including reasonable expenses incurred by the trustee in obtaining the return of those assets. The beneficiary shall make the return expeditiously upon receipt of a written notice from the trustee requesting the return of all or any part of the value of those distributed assets.